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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/310,596	05/12/1999	RAFAEL S. LISITSA	777.241US1	9040

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EXAMINER

VAUGHN JR, WILLIAM,C

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/310,596

Applicant(s)

LISITSA ET AL.

Examiner

William C. Vaughn, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-42 and 57-87 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-8, 10-42 and 57-87 is/are rejected.
- 7) ☒ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Action is in regards to the Amendment and Response received on 23 July 2004.

Response to Arguments

2. Applicant's arguments and amendments filed on 23 July 2004 have been carefully considered but they are not deemed fully persuasive. Applicant's arguments are deemed moot in view of the following new grounds of rejection as explained here below, necessitated by Applicant's substantial amendment (i.e., *comprising nested subframes*) to the claims which significantly affected the scope thereof.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-8, 10-42 and 57-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dave et al. (Dave), U.S. Patent No. 6,086,628 in view of Bernstein et al. (Bernstein), U.S. Patent No. 5,282,202 in view of Shaw et al. (Shaw), U.S. Patent No. 6,356,945.
5. Regarding independent claims 1, 11, 21, 33, 57, 69, 80 and 81 (e.g., exemplary independent claim 1). Dave discloses a method for processing frames of streaming data through modules in a digital computer, constructing a graph as a sequence of the modules for accepting and processing the frames of streaming data to achieve desired output data [see Dave, Figures 1-2, Col. 5, 15-67 and Col. 6, lines 1-65], providing a common memory area accessible to the modules for storing streaming data [see Dave, 8, lines 32-35, 50-55 and Col. 12, lines 25-35];

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and transporting the streaming data through different ones of the modules in the group in different ones of the subframes [see Dave, Col. 12, lines 40-63]. However, Dave does not explicitly disclose allocating composite frames in the common memory area, each composite frames having predefined subframes and restructuring the data among at least some of the subframes in the restructuring module.

6. In the same field of endeavor, Bernstein discloses (i.e., composite frame reconfiguration in integrated services networks). Bernstein discloses allocating composite frames in the common memory area, each composite frames having predefined subframes [see Bernstein, Col. 3, lines 24-28, Col. 4, lines 49-53 and Col. 27, lines 37-44] and restructuring the data among at least some of the subframes in the restructuring module [see Bernstein, Col. 15 and Col. 16].

7. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Bernstein's teachings of composite frame reconfiguration in integrated services networks with the teachings of Dave, in order to perform or implement particular tasks and thus Dave provides motivation to do so by stating the need to support communication within a multimedia environment [see Dave, Col. 2, lines 26-46].

However, Dave-Bernstein does not explicitly disclose nested subframes.

8. In the same field of endeavor, Shaw discloses (e.g. a method and apparatus including system architecture for multimedia communication). Shaw discloses nested subframes (Shaw teaches that it is therefore possible to either downsample a compressed MPEG frame 240 into one of the modified CIF format 908 or simply send multiple compressed MPEG subframes by partition. For example, a 1440h.times.960v MPEG frame 240 can downsample 5:1 into a 288h.times.192v modified CIF frame 908 for transmission and decode and upsample at 1:5 to

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display it at standard MPEG resolution at the corresponding output), [see Shaw, Col. 14, lines 16-22].

9. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Shaw's teachings with the teachings of Dave-Bernstein, for the purpose of improving upon compression and decompression techniques for media types [see Shaw, Col. 3, lines 20-32].

10. Regarding dependent claims 2-8, 10, 12-20, 22-32, 34-42, 58-68 and 70-79, the limitations of these claims are taught within the figures and disclosure of Dave-Bernstein and Shaw.

Double Patenting

11. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

12. Claims 1-8, 10-42, 80-87 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of U.S. Patent No. 6,748,440 in view of Shaw et al. (Shaw), U.S. Patent No. 6,356,945. Because both contain similar language in regards to pipes, modules, graph, allocation of frames. And thus it would have been obvious to one of ordinary skill in the networking art at the time the invention was

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made to have incorporated Shaw's teachings of a method and apparatus including system architecture for multimedia communication with the teachings of Patent Application 09/310,596, to have included nested subframes since Shaw does teach compression of subframes.

Response to Arguments

13. Again, it is the Examiner's position that Applicant has not yet submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in manner, which distinguishes over the prior art. As it is Applicant's right to continue to claim as broadly as possible their invention. It is also the Examiner's right to continue to interpret the claim language as broadly as possible. It is the Examiner's position that the detailed functionality that allows for Applicant's invention to overcome the prior art used in the rejection, fails to differentiate in detail how these features are unique. As it is extremely well known in the networking art as already shown by Save-Bernstein and Shaw and other prior arts of records disclosed nested subframes within composite as well as other claimed features of Applicant's invention. Thus, it is clear that Applicant must submit amendments to the claims in order to distinguish over the prior art use in the rejection that discloses different features of Applicant's claim invention. It is requested that Applicant further provide the details regarding frame control tables for each module as well as the restructuring modules and data sourcing operations.

14. Applicant has had numerous opportunities to amend the claimed subject matter, and has failed to modify the claim language to distinguish over the prior art of record by clarifying or substantially narrowing the claim language. Thus, Applicant apparently intends that a broad interpretation be given to the claims and the Examiner has adopted such in the present and

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previous Office action rejections. See *In re Prater and Wei*, 162 USPQ 541 (CCPA 1969), and MPEP 2111.

15. Applicant employs broad language, which includes the use of word, and phrases, which have broad meanings in the art. In addition, Applicant has not argued any narrower interpretation of the claim language, nor amended the claims significantly enough to construe a narrower meaning to the limitations. As the claims breadth allows multiple interpretations and meanings, which are broader than Applicant's disclosure, the Examiner is forced to interpret the claim limitations as broadly and as reasonably possible, in determining patentability of the disclosed invention. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir.1993).

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

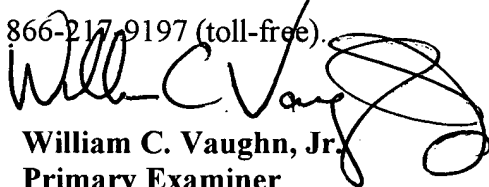
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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Vaughn, Jr. whose telephone number is (703) 306-9129. The examiner can normally be reached on 8:00-6:00, 1st and 2nd Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on (703) 308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


William C. Vaughn, Jr.
Primary Examiner
Art Unit 2143

WCV